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AmeriMark Automotive AG, and Third-Party Defendants  
Shaen Bernhardt, Martin Fasser Heeg, Stefan Kammerlander,  
and AmeriMark Group AG*

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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CAPANA SWISS ADVISORS AG, a Swiss  
corporation; AMERIMARK AUTOMOTIVE AG,  
a Swiss corporation,

Plaintiffs,

vs.

RYMARK, INC., a Utah corporation;  
NICHOLAS THAYNE MARKOSIAN, an  
individual; JOHN KIRKLAND, an individual;  
and VICKY SMALL, an individual,

Defendants.

And Related Counterclaims and Third-Party  
Claims.

**PLAINTIFFS' RULE 16 MOTION FOR  
AMENDED SCHEDULING  
CONFERENCE**

Case No. 2:23-cv-00467

Judge: Hon. Ted Stewart

Magistrate Judge: Hon. Cecilia M. Romero

Pursuant to Federal Rule of Civil Procedure 16, Plaintiffs hereby ask the Court to set conference to schedule trial and pretrial deadlines for this matter. In support of this request, Plaintiffs assert:

1. Fact discovery in this case initially closed on January 28, 2025. ECF 88.
2. On June 18, 2025, the Court granted Defendants' Motion for Limited Extension of Fact Discovery. ECF 283.
3. The Court ordered Plaintiffs and Defendants to meet-and-confer and no later than June 27, 2025 and to submit a proposed second amended scheduling order addressing the discovery deadlines in the Motions. ECF 283.
4. Plaintiffs and Defendants met-and-conferred on June 27, 2025 and several times since then. However, Plaintiffs and Defendants are at an impasse with regard to the second amended scheduling Order. The disputed issue is whether case deadlines can be finalized while Third-Party Defendant Ashley Miron Leshem's forthcoming Motion to Dismiss the Amended Third-Party Complaint is pending.
5. Plaintiffs' position is that the case deadlines should be set to keep this case moving towards trial. Plaintiffs proposed the following schedule to Defendants:

Event	Current Deadline	Proposed Deadline
Last Day to Serve Written Discovery:	December 28, 2024	August 1, 2025
Close of Fact Discovery:	January 28, 2025	September 30, 2025
Last Day to File Motion to Amend Pleadings:	November 28, 2024	June 30, 2025
Last Day to File Motion to Add Parties:	November 28, 2024	June 30, 2025
Rule 26(a)(2) Expert Disclosures	February 27, 2025	February 27, 2025
Rule 26(a)(2)(C) Counter Disclosures	April 4, 2025	April 4, 2025
Rule 26(a)(2) Expert Reports	May 10, 2025	October 30, 2025
Rule 26(a)(2)(C) Counter Reports	June 10, 2025	December 3, 2025
Last Day for Expert Discovery:	July 10, 2025	January 15, 2026
Deadline to File Dispositive or Potentially Dispositive Motions:	August 9, 2025	February 9, 2026
Deadline to File Partial or Complete Motions to Exclude Expert Testimony:	July 10, 2025	February 1, 2026
Evaluate case for settlement/ADR on:	April 4, 2025	October 10, 2025

Event	Current Deadline	Proposed Deadline
Deadline for filing a request for a scheduling conference with the district judge for the purpose of setting a trial date if no dispositive motions are filed.:	August 15, 2025	December 15, 2025
Requested Trial Date:	N/A	Plaintiffs anticipate being ready for trial in April 2026

6. On July 23, 2025, Defendants informed Plaintiffs that Defendants seek to set the dates above based upon when the Court disposes of Third-Party Defendant Ashley Miron Leshem's forthcoming Motion to Dismiss the Amended Third-Party Complaint.

Based on the foregoing and because Plaintiffs and Defendants are at an impasse, Plaintiffs respectfully request that the Court set a conference to schedule trial and pretrial deadlines for this matter.

Dated: July 24, 2025

PARSONS BEHLE & LATIMER

*/s/ Erik A. Christiansen*

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**CERTIFICATE OF SERVICE**

I hereby certify that on **July 24, 2025**, I caused a true and correct copy of the foregoing  
**PLAINTIFFS' RULE 16 MOTION FOR AMENDED SCHEDULING CONFERENCE** to  
be filed on CM/ECF and accordingly electronically served to the parties of record.

*/s/ Sherry Smith*

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Sherry Smith